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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/718,413	11/20/2003	Michael James Cameron		9669

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EXAMINER

ROWAN, KURT C

ART UNIT PAPER NUMBER

3643

DATE MAILED: 09/21/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/718,413

Applicant(s)

CAMERON ET AL.

Examiner

Kurt Rowan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-31 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>11-20-03</u> | 6) <input type="checkbox"/> Other: ____.  |

## DETAILED ACTION

### ***Double Patenting***

1. Claims 1-22 of this application conflict with claims 1-22 of Application No. 10/310,339. 37 CFR 1.78(b) provides that when two or more applications filed by the same applicant contain conflicting claims, elimination of such claims from all but one application may be required in the absence of good and sufficient reason for their retention during pendency in more than one application. Applicant is required to either cancel the conflicting claims from all but one application or maintain a clear line of demarcation between the applications. See MPEP § 822.
2. A rejection based on double patenting of the "same invention" type finds its support in the language of 35 U.S.C. 101 which states that "whoever invents or discovers any new and useful process ... may obtain a patent therefor ..." (Emphasis added). Thus, the term "same invention," in this context, means an invention drawn to identical subject matter. See *Miller v. Eagle Mfg. Co.*, 151 U.S. 186 (1894); *In re Ockert*, 245 F.2d 467, 114 USPQ 330 (CCPA 1957); and *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970).

A statutory type (35 U.S.C. 101) double patenting rejection can be overcome by canceling or amending the conflicting claims so they are no longer coextensive in scope. The filing of a terminal disclaimer cannot overcome a double patenting rejection based upon 35 U.S.C. 101.

3. Claims 1-22 are provisionally rejected under 35 U.S.C. 101 as claiming the same invention as that of claims 1-22 of copending Application No. 10/310,339. This is a provisional double patenting rejection since the conflicting claims have not in fact been patented.

### ***Claim Objections***

4. Claim 20 is objected to because of the following informalities: claim 20 does not end in a ".". Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 1-31 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 1, it is not clear how the first means structurally relates to the pivot ball. Also, care should be taken so not to have exclusive embodiments depending from each other as in the different switches. For example claim 1 recites a third means which is taken to be a switch. Claim 24 recites a sixteenth means which is also a switch. It appears that these claims conflict. Please clarify. In general all of the rejections under 35 USC 112 could be corrected by changing "the" to —a— or —an--.

7. Claim 2 recites the limitation "the center" in line 4. There is insufficient antecedent basis for this limitation in the claim. —A center—would be correct.

8. Claim 2 recites the limitation "the spherical pivot ball section" in line 5, page 44. There is insufficient antecedent basis for this limitation in the claim.

9. Claim 4 recites the limitation "said spring clip" in lines 6-7 on page 47 . There is insufficient antecedent basis for this limitation in the claim.

10. Claim 4 recites the limitation "said self-adjusting unactuated alarm ceasing position" in lines 21-22. There is insufficient antecedent basis for this limitation in the claim.

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11. Claim 7 recites the limitation "said self-adjusting unactuated alarm ceasing position" in lines 19-20. There is insufficient antecedent basis for this limitation in the claim.

12. Claim 8 recites the limitation "the exterior side4" in line 12. There is insufficient antecedent basis for this limitation in the claim.

13. Claim 8 recites the limitation "the spherical open ended socket" in line1 of page 52. There is insufficient antecedent basis for this limitation in the claim.

14. Claim 8 recites the limitation "the illuminating portion" in line 1 on page 53 . There is insufficient antecedent basis for this limitation in the claim.

15. Claim 8 recites the limitation "the sound hole" in line 3 on page 53. There is insufficient antecedent basis for this limitation in the claim.

16. Claim 8 recites the limitation "the outer circumference of said interior side" in lines 15-16 on page 53. There is insufficient antecedent basis for this limitation in the claim.

17. Claim 23 recites the limitation "the other side" in line 6. There is insufficient antecedent basis for this limitation in the claim.

18. Claim 24 recites the limitation "the unactuated alarm ceasing mode" in lines 8-9. There is insufficient antecedent basis for this limitation in the claim.

19. Claim 25 recites the limitation "the constantly on position" in line 1 on page 60. There is insufficient antecedent basis for this limitation in the claim.

20. Claim 25 recites the limitation "the unactuated alarm ceasing mode" in line 2 on page 60. There is insufficient antecedent basis for this limitation in the claim.

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21. Claim 28 recites the limitation "the unactuated alarm ceasing mode" in lines 4-5 on page 61. There is insufficient antecedent basis for this limitation in the claim.

22. Claim 29 recites the limitation "the constantly on position" in line 7. There is insufficient antecedent basis for this limitation in the claim.

23. Claim 29 recites the limitation "the unactuated alarm ceasing mode" in line 8. There is insufficient antecedent basis for this limitation in the claim.

***Allowable Subject Matter***

24. Claims 1-31 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, and the double patenting rejection set forth in this Office action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kurt Rowan whose telephone number is 703 308-2321. The examiner can normally be reached on Monday-Thursday 6:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Poon can be reached on 703 308-2574. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Kurt Rowan  
Primary Examiner  
Art Unit 3643

KR